

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ONELIO CARDONA-HERNANDEZ,

Petitioner,

v.

RON HAYNES,

Respondent.

CASE NO. 2:20-cv-00623-RSM-BAT

**ORDER GRANTING LEAVE TO  
FILE AMENDED PETITION AND  
DIRECTING SERVICE AND  
ANSWER, DUE 12/18/2020**

Petitioner filed a federal habeas action filed under 28 U.S.C. § 2254 and Respondent filed an Answer. On October 7, 2020 petitioner filed a motion to amend his habeas petition. Dkt. 14. Respondent responded indicating he did not object because petitioner was not raising new claims and that he does not waive any defense previously asserted regarding exhaustion and procedural bars. Dkt. 15. The Court accordingly ORDERS:

1. The Court GRANTS the motion to amend the habeas petition. Dkt. 14. The amended petition replaces entirely the original petition and the Court will only consider the claims and arguments raised in the Amended Petition. The Clerk is directed to file the Amended Petition found at docket 14-1.

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1           (1)     The Clerk is directed to send to respondent and to the Attorney General of the  
2 State of Washington, via e-mail, copies of the amended petition and of this Order. The Clerk  
3 shall also direct a copy of this Order and of the Court's *pro se* instruction sheet to petitioner.

4           2)     Respondent shall file and serve an answer to the amended petition in accordance  
5 with Rule 5 of the Rules Governing Section 2254 Cases in United States District Courts. The  
6 answer to the amended petition shall be filed no later than **DECEMBER 18, 2020**. As part of  
7 such answer, respondent shall state whether petitioner has exhausted available state remedies and  
8 whether an evidentiary hearing is necessary. Respondent shall not file a dispositive motion in  
9 place of an answer without first showing cause as to why an answer is inadequate. Respondent  
10 shall file the answer with the Clerk of the Court and serve a copy of the answer on petitioner.

11          (3)     The answer will be treated in accordance with LCR 7(d)(3). Accordingly, on the  
12 face of the answer, respondent shall note it for consideration on the fourth Friday after filing.  
13 Petitioner may file and serve a response not later than the Monday immediately preceding the  
14 Friday designated for consideration of the matter, and respondent may file and serve a reply not  
15 later than the Friday designated for consideration of the matter.

16          (4)     Filing by Parties, Generally

17           All attorneys admitted to practice before this Court are required to file documents  
18 electronically via the Court's CM/ECF system. Petitioner shall file all documents electronically.  
19 All filings must indicate in the upper right hand corner the name of the magistrate judge to whom  
20 the document is directed. Any document filed with the Court must be accompanied by proof that  
21 it has been served upon all parties that have entered a notice of appearance in the underlying  
22 matter. Petitioner shall indicate the date the document is submitted for e-filing as the date of  
23 service.

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1 For any party filing electronically, when the total of all pages of a filing exceeds fifty  
2 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as  
3 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be  
4 clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

5 (5) Motions

6 Any request for court action shall be set forth in a motion, properly filed and served.  
7 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a  
8 part of the motion itself and not in a separate document. The motion shall include in its caption  
9 (immediately below the title of the motion) a designation of the date the motion is to be noted for  
10 consideration on the Court's motion calendar.

11 (6) Direct Communications with District Judge or Magistrate Judge

12 No direct communication is to take place with the District Judge or Magistrate Judge with  
13 regard to this case. All relevant information and papers are to be directed to the Clerk.

14 DATED this 23<sup>rd</sup> day of October, 2020.

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BRIAN A. TSUCHIDA  
United States Magistrate Judge